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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

AUG 12 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of )

AURIO A. MATOS )

LLOYD SANTIAGO-SANTOS and )  
LOURDES RODRIGUEZ BONET )

For Construction Permit for )  
a New FM Station on Channel )  
293A in Culebra, Puerto Rico )

MM DOCKET NO. 93-89

File No. BPH-911114MS

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To: The Honorable Joseph P. Gonzalez  
Administrative Law Judge

**OPPOSITION TO  
NOTIFICATION OF WITNESSES**

Lloyd Santiago-Santos and Lourdes Rodriguez Bonet ("Santos and Bonet"), by their attorneys as directed by the Presiding Judge in his Order, FCC 93M-166, released April 15, 1993, hereby oppose the request by Aurio A. Matos to make available Lloyd Santiago-Santos and Lourdes Rodriguez Bonet for cross-examination scheduled to commence on August 24, 1993 in the above proceeding.

In support thereof, the following is respectfully shown:

The Matos notification is premised on three grounds:

1. Cross-examination is required to determine the veracity of the matters asserted in the written direct case exhibits;

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2. Cross-examination is necessary to determine if Santos and Bonet will be equally involved in the construction and operation of the proposed facility as they propose; and
3. Cross-examination is required to determine the understanding of Santos and Bonet with respect to their respective roles and duties at the proposed facility including utilization of claimed past broadcast experience.

However, not one fact is presented to challenge the truthfulness of the statements made in the written direct cases exchanged on August 6, 1993. There is not one reference to any inconsistency between the written direct case, the integration statement of Santos and Bonet, any of the documents produced or statements made in depositions. Yet, Matos urges that everyone be put to the burden and expense of cross-examination merely on the self-serving conclusion advocated by counsel for Matos that cross-examination is required to determine the veracity of the matters asserted in the written direct case exhibits.

The Presiding Judge made it very clear in his April 15 Order that one seeking cross-examination was required to present their case with specificity not only as to factual allegations, but as to points of law. Both are missing in the Matos notification. There has been no reference to any part of the direct case exhibits exchanged by Santos and Bonet that would shed light on the need for cross-examination. Matos has failed to make the showing directed by the Judge and required by §1.248 of the Commission's

Rules to justify the expense in money as well as time for cross-examination in a comparative broadcast proceeding for a new facility. As the Commission recognized in its clarification order In re Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, 6 FCC Rcd 3403 (1991):

the discovery process provides ample opportunity to test a applicant's bona fides, and...it will be material uncovered during discovery that raises a legitimate expectation that some part of a witness's direct testimony...is subject to a question of substantial decisional significance.

Matos has not even attempted to point with specificity to any part of the Santos and Bonet exhibits which is of questionable veracity. As to the weight to be given to the written testimony, Matos is free to make appropriate arguments in his proposed findings and conclusions of law.

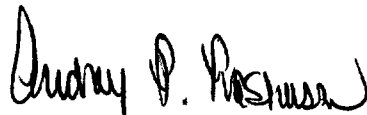
Santos and Bonet, after reviewing the written direct case exhibits, proposed by Matos, compared the exhibits to deposition transcripts and documents produced in response to the various document requests, and concluded that on the comparative issues specified in this case, there is no legitimate expectation that any part of the Matos direct testimony is subject to a question of substantial decisional significance. Accordingly, Santos and Bonet did not notice Matos for cross-examination. However, since there will be no savings for the Commission or the private parties if Santos and Bonet are required to travel from Puerto Rico to

Washington for cross-examination on the limited factual issues in the comparative proceeding, Santos and Bonet urge that the Presiding Judge also require that Matos be available for cross-examination in the event that he acts favorably on the Matos request. This will provide full opportunity for comparison with respect to the veracity, involvement in the construction and operation of the facility and the understanding of the roles and duties of each of these applicants so that the applicant which will better serve the public interest can be determined.

Respectfully submitted,

**LLOYD SANTIAGO-SANTOS**  
and  
**LOURDES RODRIGUEZ BONET**

By:

  
\_\_\_\_\_  
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Dated: August 12, 1993

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**CERTIFICATE OF SERVICE**

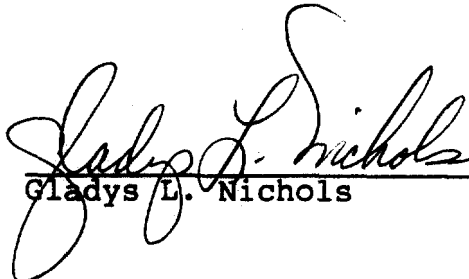
I, Gladys L. Nichols, do hereby certify that on this 12th day of August, 1993, the foregoing **OPPOSITION TO NOTIFICATION OF WITNESSES** was served to the following persons by First Class Mail:

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\* Hand Delivered